

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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)
IN RE: PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE)
LITIGATION) MDL NO. 1456
)
) CIVIL ACTION: 1:01-CV-12257-PBS
)
) Judge Patti B. Saris
THIS DOCUMENT RELATES TO:)
)
State of California, et al. v.)
Abbott Laboratories, Inc. et al.,)
CIVIL ACTION NO. 1:03-CV-11226-PBS)
)

**ABBOTT LABORATORIES INC.'S OPPOSITION TO THE MOTION
BY THE STATE OF CALIFORNIA FOR COURT CLARIFICATION REGARDING
CALIFORNIA'S AND RELATOR'S INVOLVEMENT IN THE TUTORIAL PROCESS**

Defendant, Abbott Laboratories Inc. ("Abbott"), hereby opposes the Motion By The State Of California For Court Clarification Regarding California's and Relator's Involvement In The Tutorial Process.¹ In their October 1, 2004 status report, the State of California and Ven-A-Care ("Plaintiffs") requested the opportunity to participate in the tutorial scheduled for December 7, 2004. Abbott opposed that request in a response filed on October 8, 2004. By this motion, the State of California and Ven-A-Care again request the opportunity to participate in the December 7, 2004 tutorial or, alternatively, to present a separate tutorial to the Court on issues relevant to the California action.

For the reasons stated in Abbott Laboratories Inc.'s Response To The State Of California's And Relator's Status Report October 1, 2004 and Track 1 Defendants Opposition To

¹ Co-defendants Wyeth Inc. and Wyeth Pharmaceuticals Inc. (collectively, "Wyeth") join Abbott in this opposition.

Motion by State of California For Court Clarification Regarding California's And Relator's Involvement In The Tutorial Process, which Abbott incorporates herein, Plaintiffs' request is inappropriate and premature. The purpose of the December 7, 2004 tutorial on pharmaceutical pricing and reimbursement is to assist the Court in its consideration of the motion for class certification filed by plaintiffs in the Amended Master Consolidated Complaint (the "AMCC"). There are no class certification issues in the California case and the reimbursement programs at issue in the AMCC (private payor and Medicare) are different from the reimbursement program at issue in the California case (Medicaid). In addition, neither Abbott nor Wyeth will participate in the tutorial, as Abbott is not a Track 1 Defendant and Wyeth is not an AMCC defendant. Furthermore, as the Track 1 Defendants point out in their opposition to the Motion, there are several cases pending before the Court relating to the Medicaid program. Abbott agrees that it may be beneficial at some later date to have a separate tutorial relating to the Medicaid program, in which all of the state and county plaintiffs participate. However, until California files its amended complaint-in-intervention and Abbott and Wyeth can ascertain what claims and parties are in the case, it would be premature to even consider a date for such tutorial.

CONCLUSION

For the reasons stated above, the Court should deny the motion of the State of California and relator Ven-A-Care.

Dated: November 8, 2004



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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November, 2004, a true and correct copy of ABBOTT LABORATORIES INC.'S OPPOSITION TO THE MOTION BY THE STATE OF CALIFORNIA FOR COURT CLARIFICATION REGARDING CALIFORNIA'S AND RELATOR'S INVOLVEMENT IN THE TUTORIAL PROCESS was served upon all counsel of record by electronic service pursuant to CMO No. 2, by causing a copy to be sent to Verilaw Technologies for posting and notification.



Attorney for Defendant Abbott Laboratories Inc.